

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

TRUSTEES OF SHEET METAL WORKERS LOCAL 7
ZONE 1, PENSION FUND, TRUSTEES OF SHEET
METAL WORKERS LOCAL 7 ZONE 1 HEALTH &
WELFARE FUND, TRUSTEES, SHEET METAL WORKERS
LOCAL No.7 ZONE 1- FIVE CITIES ASSOCIATION, JOINT
APPRENTICESHIP AND TRAINING FUND, TRUSTEES OF
THE SHEET METAL WORKERS' NATIONAL PENSION FUND,
(NPF) TRUSTEES OF THE INTERNATIONAL TRAINING INSTITUTE
FOR THE SHEET METAL AND AIR CONDITIONING INDUSTRY (ITI)
TRUSTEES FOR THE SHEET METAL OCCUPATIONAL HEALTH
INSTITUTE TRUST, TRUSTEE FOR THE NATIONAL ENERGY
MANAGEMENT INSTITUTE

Case No.

PLAINTIFFS

v

PRO SERVICES, INC., A Michigan Corporation

DEFENDANT

COMPLAINT

Plaintiffs complaint against Defendant as follows:

1. This action arises under the Employment Retirement Security Act of 1974, including Title 29 sec. 1132, et al as more fully appears. This is an action to recover unpaid contributions under the Sheet Metal Workers' International Association Collective Bargaining Agreement.

2. Plaintiffs, Trustees of Sheet Metal Workers Local 7 Zone 1 Pension Fund, Trustees of Sheet Metal Workers Local 7 Zone 1 Health and Welfare Fund, Trustees Sheet Metal Workers Local 7 Zone 1-Five Cities Association, Joint Apprenticeship and Training Fund, Trustees of the Sheet Metal Workers National Pension Fund, Trustees of the International Training

Institute for the Sheet Metal and Air Conditioning Industry (ITI), Trustees of the Sheet Metal Occupational Health Institute Trust, and Trustees of the National Energy Management Institute, (“the Funds”) are each a jointly-trusted fund established pursuant to Section 302 of the Labor Management Relations Act (“LMRA”), 29 U.S.C. § 185 and § 302 and 515 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1132 and 1145, and brings this action through their respective Trustees, on behalf of themselves, and their individual participants.

3. The Sheet Metal Workers Local 7 Zone 1 (the Union) is a labor organization as defined in Section 451 of the National Labor Relations Act, 29 U.S.C. § 152(5), with its principal place of business located at 4831 Contec Drive, Lansing, Michigan 48901.

4. Defendant Pro Services, Inc. (herein after referred to as “the Employer”) is a Michigan Corporation with its principal place of business located at 8132 Merchant Place, Portage, Michigan 49002.

5. Jurisdiction is founded on Section 301(a) of the LMRB, as amended, 29 U.S.C. Section 185 (a) and Section 502 and 515 of ERISA, 29 U.S.C. Section 1132 and 1145, as amended by the Multi-Employer Pension Plan Amendment Act of 1980 (“MPPAA”) and Federal common law.

COUNT 1
ERISA: DELINQUENT CONTRIBUTIONS

6. Plaintiffs hereby re-allege and incorporate the allegations of Paragraph 1 through 5 of their complaint as if fully set forth.

7. Section 501 of ERISA provides that “every employer who is obligated to make contributions to a multi-employer plan under the terms of the plan or under the terms of a

collectively bargained agreement shall, to the extent not inconsistent with law, make such contributions in accordance with the terms and conditions of such plan or such agreement.”

8. Section 502 of ERISA provides a federal forum for enforcement of the various duties imposed by ERISA, including, but not limited to, allowance of a lawsuit to enjoin any act which violates ERISA or to obtain other appropriate legal or equitable relief.

9. Pursuant to the collective bargaining agreement (hereinafter “CBA”) between Employer and the Union, Employer agreed to make employee fringe benefit contributions and assessments to the Funds for each such employee covered by the collective bargaining agreement, which are individuals in the appropriate bargaining unit who perform covered work (Employees”), and to be bound by the terms and conditions set forth in the Fund’s Trust Agreement (the Trust Agreement). Defendants have copies of all records within their files: notwithstanding, Plaintiffs have attached a copy of the signature page of the collective bargaining agreement as Exhibit 1.

10. The funds are third-party beneficiaries of the party’s collective bargaining agreement.

11. Employer has violated both its contractual and statutory obligations by failing to make all of the fringe benefit contributions and assessments due on behalf of each Employee covered by the collective bargaining agreement and as incorporated in same, the relevant Trust Agreements.

12. As a result of Employer’s violations of its contractual and statutory obligations, Employer has violated ERISA, the collective bargaining agreement and the relevant Trust Agreements.

13. Plaintiffs are entitled to all remedies under ERIAS, including, but not limited to, payment of fringe benefit contributions owed, audit assessments, liquidated damages, attorney fees and costs.

14. At all relevant times, Employer was bound bby then parties collective bargaining

By _____ /s/ _____
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